



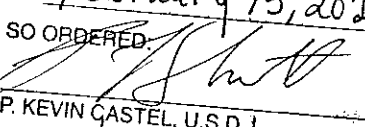
DIVISION OF
ENFORCEMENT

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
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NEW YORK, NY 10004-2616

FILED BY ECF

Hon. P. Kevin Castel
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

November 9, 2022 adjourned

From: November 28, 2022
To: February 13, 2023 at 12:00 p.m.
SO ORDERED:

P. KEVIN CASTEL, U.S.D.J.
Date: 11-10-22

Re: SEC v. Scott Lindell, No. 22 Civ. 8368 (PKC) [rel No. 22 Civ. 1346 (PKC)]

Dear Judge Castel:

Plaintiff Securities and Exchange Commission ("SEC") and Defendant Scott Lindell ("Lindell") respectfully write to jointly request the adjournment of the Initial Pretrial Conference scheduled for November 28, 2022, in this matter. (D.E. 12). Witness testimony and other evidence in a related criminal trial, scheduled to begin on November 28, may eliminate the need for some or all discovery in this case on the narrow issues that remain following the Court's entry of the parties' bifurcated consent judgment.

The SEC's Complaint alleges, among other things, that Lindell—the former Chief Risk Officer and Chief Compliance Officer of an SEC-registered investment adviser, Infinity Q Capital Management LLC—failed to undertake an appropriate investigation as to numerous red flags while the firm's founder, James Velissaris, engaged in a fraudulent scheme to inflate the value of certain assets by over \$1 billion. (D.E. 1 at ¶¶ 1–7). The SEC's Complaint further alleges that Lindell, at Velissaris's direction, helped Velissaris submit misleading documents to the SEC staff in response to the SEC's initial inquiries in this matter and helped Velissaris mislead the auditor of the Infinity Q mutual fund. (*Id.* at ¶ 8). The partial consent judgment resolved certain injunctive relief the SEC seeks but leaves open for later resolution by motion (or further settlement) the monetary relief and officer-and-director bar the SEC also seeks. (D.E. 10).

Meanwhile, the trial in a related criminal case against Velissaris involving the same fraudulent scheme, *United States v. James Velissaris*, 22 Cr. 105, is currently scheduled to begin on November 28, 2022, before Judge Cote. According to a recent filing by the United States in that matter:

At trial beginning on November 28, the Government intends to prove this fraud through, among other things, the testimony of former Infinity Q

employees, Bloomberg employees, the Funds' auditor and administrator, investors in the Funds, and employees of the SEC, all of whom were misled and deceived by the defendant's criminal conduct.

22 Cr. 105, D.E. 40. Witness testimony and other evidence adduced at the criminal trial may obviate the need for some or all discovery as to the limited issues remaining in this SEC action.

The parties therefore respectfully request that the Court adjourn the Initial Pretrial Conference in this matter to a later date, after the conclusion of the *Velissaris* trial. The parties can then determine whether they need to take any additional discovery or whether the *Velissaris* trial transcript and evidence suffices to permit the parties to resolve the remaining relief in this case or propose a briefing schedule for the SEC's motion for remedies.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "DHT", is written over a horizontal line.

David H. Tutor
Senior Counsel
Division of Enforcement

cc: Counsel for Defendant (by email and ECF)